

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

Voluntary Public

Date: 5/7/2014

GAIN Report Number: CA14044

Canada

Post: Ottawa

Impact of Trade Action on Imports of Pizza Toppings Kits

Report Categories:

Trade Policy Monitoring

Approved By:

Jeff Zimmerman

Prepared By:

Darlene Dessureault

Report Highlights:

This report discusses the trade action Canada has taken against U.S. exports of pizza topping kits to Canada, the international reaction to this trade action, and the impact this trade action has had on Canadian imports of U.S. food preparations in Chapter 16. Post estimates that the value of the annual trade lost to US exporters as a direct result of the trade action taken by Canada against exports of pizza toppings kits to be US\$ 25-30 million.

Impact of Canadian Trade Action Taken on US-Origin Pizza Toppings Kits

This report discusses the trade action Canada has taken against U.S. exports of pizza topping kits to Canada, the international reaction to this trade action, and the impact this trade action has had on Canadian imports of U.S. food preparations in Chapter 16. U.S. exporters remain concerned that Canada will continue to resort to parliamentary procedures, without any advance notification or consultation to affected parties, to give effect to domestic tax and tariff changes and restrict trade it deems a threat to its domestic dairy industry's interests.

Canadian Trade Action Taken Against U.S. Exports in Chapter 16

On November 22nd, 2013, Canada indicated its intent to introduce taxation legislation into the Canadian Parliament that fundamentally alters the manner in which tariffs on certain products in the Canadian Customs Tariff Chapter 16 (Preparations of Meat, of Fish or of Crustaceans, Mollusks or other Aquatic Invertebrates) will be administered. The proposed amendment adds a second supplementary note to Chapter 16, with an effective date of November 29th, 2013. The new supplementary note states:

Where the components of food preparations of a type used commercially in the preparation of fresh food products for direct sale to a consumer include cheese, those components are to be classified separately, in their respective headings, regardless of their packaging.

The proposed change means that meat-based food preparations that contain cheese which were previously entering Canada duty-free would be subject, once the motion is made into law, to a prohibitively high tariff, retroactive to November 29th, 2013. Once the motion is law, the components of the food preparation under 1601.00.90 will be charged different rates of duty, with the cheese component being subject to a 246 percent duty. As a result of this action, trade of meat-based food preparations that contain cheese known as pizza toppings kits halted after November 29th, 2013. Canada tabled a budget implementation bill on March 28th, 2014 (Bill C-31- AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON FEBRUARY 11, 2014 AND OTHER MEASURES) that indicates its intent to follow through with the new taxation measure.

Canada's Defense of its Decision to Block U.S. Trade of Pizza Topping Kits

Canada has strongly defended its decision to implement the new taxation measure, and effectively create an additional tariff in chapter 16 by applying different rates of duties under 1601.00.90. Canada asserts that the action was needed to close a "gap" in the Customs Tariff chapter 16 and shut down trade that, in Canada's view, was a circumvention of Canada's tariff rate quotas on cheese.

This response is difficult to reconcile with the fact that the Canada Border Services Agency (CBSA) issued the same advance customs ruling for the same product in *two* different instances, as detailed in the Appeal that the Dairy Farmers of Canada brought against the CBSA (see http://www.citt-tcce.gc.ca/appeals/decision/ap2m036_e.asp). In 2012, the Dairy Farmers of Canada, under the name BalanceCo, appealed a decision by the CBSA which affirmed for a *second* time that shredded

Mozzarella cheese (coated with cellulose powder) and sliced pepperoni, packaged together and imported are classifiable under tariff item no. 1601.00.90 of the Customs Tariff schedule as a food preparation. Tariff item no. 1601.00.90 was not subject to the tariff rate quotas on dairy imports and has a bound duty rate of zero.

In addition, Canada's assertion that the imports being targeted were being "packaged in a specific manner to circumvent Canada's tariff structure" implies a level of subterfuge on the part of the importer/exporter that is difficult to establish. During the application of the advanced tariff ruling which gave the pizza toppings kits the duty-free status, Canadian officials would have been made aware of the composition of the goods, the process by which the goods are manufactured, how the goods were to be packaged, as well as the anticipated use of the goods (for more detail on the requirements of an advance tariff ruling submission see: <http://www.cbsa-asfc.gc.ca/import/ar-da/menu-eng.html>).

International Response to the Trade Action

Canada's trade action continues to be questioned at both the bilateral and multilateral levels. During the January 24th, 2014, Committee on Agriculture meeting of the WTO, the United States commented that they disagree with the term "circumvention" used by Canada and pointed out that Canada's dairy policies encourage inefficiencies in the market and create incentives for entrepreneurs to engage in rent seeking behavior that lead to Canada having to create additional barriers. New Zealand expressed concern about the process Canada adopted to amend its tariff schedule to prevent what New Zealand and the United States consider legal trade. New Zealand also expressed concern about the potential for Canada to adopt similar processes on other food preparations and blended products for which concessions on access have been negotiated. The European Union expressed interest, stating that they would be following up at the next meeting.

More information of the questions and answers posed during this meeting can be found at the following URL address:

https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?&Language=ENGLISH&SourcePage=FE_B_009&Context=Script&DataSource=Cat&query=@Symbol=G/AG/W*&languageUIChanged=true#

For questions, answers, and follow up regarding Canada's proposed changes to its tariff schedule, please see document G/AG/W/118; document #14-1405 (see item 1.2 and 1.2.1).

For New Zealand's reply to Canada's response to questions on its proposed changes to its tariff schedule, see document G/AG/W/118 corr.1, document # 14-1736

Evolution of U.S. Trade to Canada under 1601.00.90.90

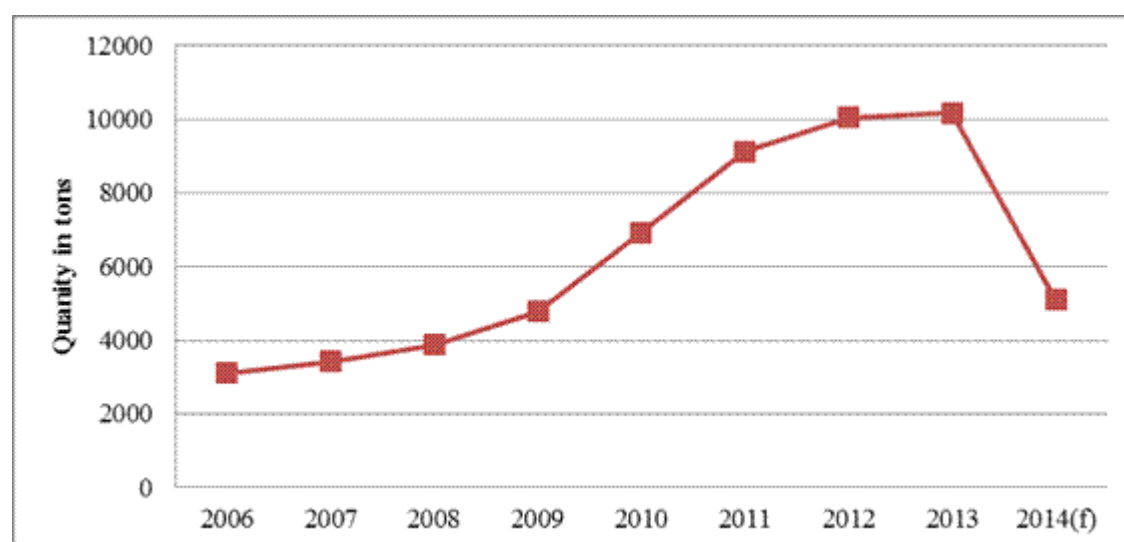
Figures 1, 2 and 3 below illustrate the evolution of trade under 1601.00.90.90, the tariff number under which the pizza toppings kits would be classified. The figures show the negative impact this anticipated

measure has had on U.S.-origin imports to Canada under this line after November 29th, 2014.

Volume of Canadian Imports of U.S.-Origin Meat-based Food Preparations Classified Under 16.01.00.90.90; Years 2006-2014(forecast):

U.S.-origin imports to Canada under 16.01.00.90.90 were growing steadily from 2006 until the end of 2013. Trade is forecast to fall to pre-2010 levels in 2014 due to the anticipated new taxation measures on the cheese component which will be applied retroactively on imports entering Canada under this line. For the year 2013, trade volumes would likely have been higher if not for the proposed taxation measure introduced into Parliament that have a retroactive effective date of November 29, 2013.

Figure 1: *Volume of Canadian Imports of U.S.-Origin Meat-based Food Preparations Classified Under 16.01.00.90.90 – Year 2006 until 2014(forecast)*

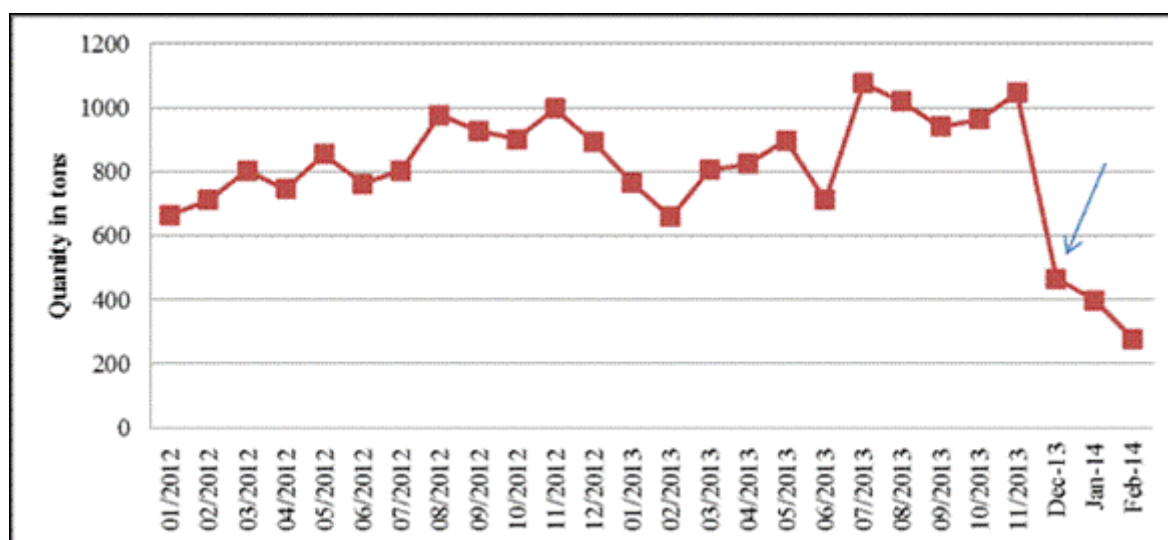


Source: Statistics Canada, Global Trade Atlas.; **Additional note:** Trade under 1601.00.90.90 was captured under heading 1601.00.90.99 prior to 2012, after which time there was a change to the tariff schedule. See **Appendix 1** for more information.

Volume and Value of Canadian Imports of U.S.-Origin Meat-based Preparations Classified Under 16.01.00.90.90; Monthly Data (January, 2012 – February 2014 (forecast)):

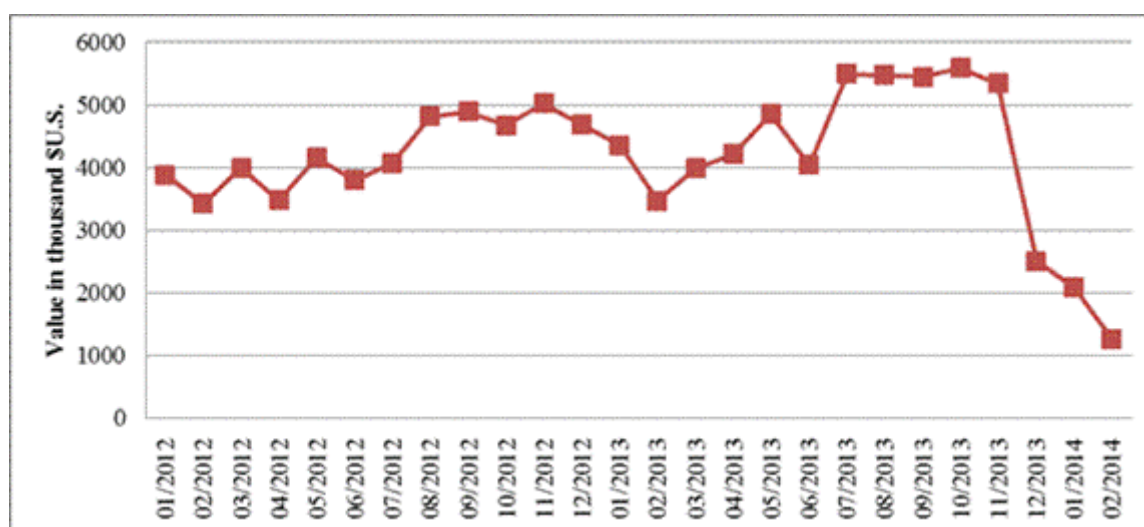
When imports under 16.01.00.90.90 to Canada from the United States are examined monthly, a notable decrease in imports occurs as of November 29th, 2013 when the new taxation measure will be applied retroactively (see **Figure 2 on next page**). The United States accounts for between 97 and 99 percent of imports into Canada under this line and the impact on U.S. trade is shown to be significant. As shown in **Figure 3** below, monthly imports of U.S. products under this tariff category fell from over \$5 million in November 2013 to just over \$1 million in February 2014.

Figure 2: *Monthly Volume of Canadian Imports of U.S. Origin Meat-based Food Preparations Classified Under 1601.00.90.90 January 2012 until February 2014 (inclusively)*



Source: Statistics Canada, Global Trade Atlas; **Additional note:** Trade under 1601.00.90.90 was captured under heading 1601.00.90.99 prior to 2012, after which time there was a change to the tariff schedule. See **Appendix 1** for more information.

Figure 3: Monthly Value of Canadian Imports of U.S. Origin Meat-based Food Preparations Classified under 1601.00.90.90 January 2012 – February 2014 (inclusive)



Source: Statistics Canada, Global Trade Atlas; **Additional note:** Trade under 1601.00.90.90 was captured under heading 1601.00.90.99 prior to 2012, after which time there was a change to the tariff schedule. See **Appendix 1** for more information.

The value of U.S. origin product being imported into Canada under the tariff heading 1601.00.90.90 reached a total of US \$ 55 million in 2013. When the trade for the months following the tariff schedule change (December 2013- February 2014, inclusive) is compared to trade for the same time period a year ago, it shows that trade has dropped more than 50 percent. Post estimates that the value of the annual trade lost to US exporters as a direct result of the trade action taken by Canada against exports of pizza

toppings kits to be US\$ 25-30 million.

Going Forward:

The budgetary implementation Bill C-31 (AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON FEBRUARY 11, 2014 AND OTHER MEASURES) is expected to pass in the late spring or early summer and will bring into force the changes to the Canadian Customs tariff schedule that will render the supplemental tariff applicable to the cheese portion of all meat-based food preparations that can be found under 16.01.00.90. U.S. exporters remain concerned that Canada will continue to resort to parliamentary procedures, without any advance notification or consultation to affected parties, to give effect to domestic tax and tariff changes in order to restrict trade it deems a threat to its domestic dairy industry's interests.

Appendix 1

There has been a change in the way that the information has been categorized at the statistical level after 2012 which requires two separate trade runs in the Global Trade Atlas (or Statistics Canada) to track the pizza kit trade. Tables one and two below highlight the changes. Trade under "other" was recorded as 1601.00.90.99 prior to 2012, and after 2012 it was recorded as "1601.00.90.90".

Table 1: Canadian Customs Tariff Schedule Prior to January 1, 2012				
160100	Sausages and similar products of meat, meat offal or blood, food preparations based on these products			
	90	Other		
			10 - Pork sausages	
			91 – Salami	
			92- Wieners or frankfurters	
			93 – Other sausages fresh, chilled or frozen	
			94 – other sausages, cured	
			99 – other (pizza kits fall in this category)	

Table 2: Canadian Customs Tariff Schedule After to January 1, 2012				
160100	Sausages and similar products of meat, meat offal or blood, food preparations based on these products			
	90	Other		
			10 - Pork sausages	
			20 – Other sausages fresh, chilled or frozen	
			80- other sausages, cured	
			90 – Other (pizza kits fall in this category)	

Table 3: Canada Import Statistics (Statistics Canada)								
Commodity: 1601009099 (year 2011) and 1601009090 (years 2012, 2013)								
Calendar Year: 2011 - 2013								
Partner Country	Unit	Quantity			\$US million			% Change 2013/2011
		2011	2012	2013	2011	2012	2013	
World	Tons	9179	10,125	10,272	47.1	51.6	55.6	12.0
United States	Tons	9134	10042	10179	46.8	50.9	54.8	11.4